

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

BEATRICE EDWARDS and
CARL C. EDWARDS,

Plaintiffs,

v.

METROPOLITAN LIFE INSURANCE
COMPANY, et al.,

Defendants.

No. C 10-03755 CRB

**ORDER DENYING MOTION FOR
PERMISSION TO FILE MOTION
FOR RECONSIDERATION**

Pro se Plaintiffs Beatrice and Carl Edwards have filed a document entitled Motion and Declaration in Support of Plaintiffs' Motion for Permission to File a Motion for Reconsideration of the Court's December 6, 2010 Order. See dckt. no. 58. In that filing, Plaintiffs assert that they did not oppose the various motions addressed by the Court's December 6, 2010 Order (dckt. no. 55) because they understood that they should not do so until the Court determined whether removal was proper. Id. This assertion is contrary to the Court's explicit instructions to Plaintiffs, about which the December 6, 2010 Order states:

At the motion hearing on November 5, 2010, the Court instructed Plaintiffs to file their objections to removal, and also reminded them to file Oppositions to the pending Motions. While Plaintiffs did file their objections to removal, they did not file an Opposition to any of the Motions now pending. The Court issued an Order to Show Cause on November 23, 2010 explaining that these Oppositions were due on November 12, 2010, ordering Plaintiffs to show cause why the case should not be dismissed under Federal Rule of Civil Procedure 41(b) for failure to prosecute, and

1 giving Plaintiffs until noon on November 29 to file any Oppositions. No Oppositions
2 were filed, and Plaintiffs confirmed at the motion hearing on December 3, 2010 that
3 they have only addressed the issue of removal. At the hearing, Plaintiffs requested
4 additional time to oppose the pending Motions, but presented no compelling reason
5 for their failure to do so until now. Accordingly, while the Court does not dismiss the
6 case based on Rule 41(b), it is proceeding to decide the Motions.

7 See dckt. no. 55 at 5-6. Plaintiffs were on notice that oppositions were due, and given ample
8 opportunity to file them. Moreover, the Court decided the motions on the merits, and not
9 based on a failure to prosecute. Id.

10 Finally, though Plaintiffs assert in conclusory fashion that “material new facts have
11 emerged, or a significant change in the law has occurred since the order was entered” and
12 that “the court clearly failed to consider material facts or legal arguments that were presented
13 to the court before the order was issued,” see dckt. no. 58 at 2, thus referencing the
14 requirements this Court demands before granting a motion for reconsideration, see Civil
15 Local Rule No. 7-9, Plaintiffs do not identify any material new facts or significant changes in
16 the law, nor do they identify any material facts or legal arguments that were presented to and
17 overlooked by the Court. Accordingly, this Motion is DENIED.

18 **IT IS SO ORDERED.**

19 Dated: December 17, 2010



CHARLES R. BREYER
UNITED STATES DISTRICT JUDGE